

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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SINGH MANAGEMENT CO., INC.,

Plaintiff/Counter Defendant-  
Appellant,

v

NORTHVILLE BAR & GRILLE, LTD.,

Defendant-Appellee,

and

VERNON E. WILSON,

Defendant/Counter Plaintiff-  
Appellee.

UNPUBLISHED  
December 9, 2003

No. 241351  
Wayne Circuit Court  
LC No. 97-737567-CK

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Before: Schuette, P.J., and Cavanagh and White, JJ.

PER CURIAM.

Plaintiff appeals by leave granted the trial court's order denying its motion for certification of an arbitration award and for entry of judgment. We reverse.

Plaintiff argues that the trial court erred in denying its motion for certification of the arbitration award and for entry of judgment under MCR 3.602. We agree. Issues involving court rule interpretation, like matters of statutory interpretation, are reviewed de novo as a question of law. *Jerico Const, Inc v Quadrants, Inc*, 257 Mich App 22, 28; 666 NW2d 310 (2003).

The stipulated order appointing a binding arbitrator provided: "any award rendered by the Arbitrator shall be certified by the Circuit Court of the County of Wayne for entry of Judgment based upon said award." "Stipulated orders that are accepted by the trial court are generally construed under the same rules of construction as contracts. Like contracts, stipulated orders are agreements reached by and between the parties." *Phillips v Jordan*, 241 Mich App 17, 21; 614 NW2d 183 (2000) (citations omitted).

A provision in a written contract to settle by arbitration under this chapter, a controversy thereafter arising between the parties to the contract, with relation

thereto, and *in which it is agreed that a judgment of any circuit court may be rendered upon the award made pursuant to such agreement*, shall be valid, enforceable and irrevocable save upon such grounds as exist at law or in equity for the rescission or revocation of any contract. Such an agreement shall stand as a submission to arbitration of any controversy arising under said contract not expressly exempt from arbitration by the terms of the contract. Any arbitration had in pursuance of such agreement shall proceed and *the award reached thereby shall be enforced under this chapter*. [MCL 600.5001(2) (emphasis added).]

Because the stipulated order provided that any award shall be certified for entry of judgment, the procedures regarding statutory arbitration are applicable. See MCL 600.5001(2); *Beattie v Autostyle Plastics, Inc*, 217 Mich App 572, 578; 552 NW2d 181 (1996).

Michigan Court Rule 3.602 governs statutory arbitration under MCL 600.5001 through MCL 600.5035. “A reviewing court has three options when a party challenges an arbitration award: (1) confirm the award, (2) vacate the award if obtained through fraud, duress, or other undue means, or (3) modify the award or correct errors that are apparent on the face of the award.” *Krist v Krist*, 246 Mich App 59, 67; 631 NW2d 53 (2001); see, also, *Gordon Sel-Way, Inc v Spence Bros, Inc*, 438 Mich 488, 495; 475 NW2d 704 (1991). MCR 3.602(I) governs the confirming of an award: “[a]n arbitration award filed with the clerk of the court designated in the agreement or statute within one year after the award was rendered may be confirmed by the court, unless it is vacated, corrected, or modified, or a decision is postponed, as provided in this rule.”

The arbitration award provided that “[t]he Arbitration Award shall be certified to the Wayne County Circuit Court and a judgment entered accordingly.” MCR 3.602(L) provides for the entry of judgment after an award has been confirmed: “The court shall render judgment giving effect to the award as corrected, confirmed, or modified. The judgment has the same force and effect, and may be enforced in the same manner, as other judgments.” MCR 3.602(J)(2) governs vacation of an award and requires, in pertinent part, that an application to vacate an award be made within 21 days after delivery of a copy of the award to the applicant. Defendant never filed a motion with the trial court to vacate the award. Similarly, defendant did not file a motion with the trial court to modify or correct the award as provided by MCR 3.602(K).

To the contrary, plaintiff filed its motion for certification and entry of judgment within one year after the award was rendered, as required by MCR 3.602(I). Defendants sent a letter to the arbitrator, claiming errors in the award and requesting adjustments to the award. When a party challenges an arbitration award, a reviewing court must confirm, vacate, or modify the award. *Gordon Sel-Way, Inc, supra*; *Krist, supra*. MCR 3.602 does not allow for the filing of a motion for reconsideration. Because defendants never filed a motion with the trial court to vacate or modify the award, the trial court’s only valid option was to confirm the award. Thus, the trial court erred when it denied plaintiff’s motion for certification of the award and entry of judgment.

Plaintiff also argues that the trial court erred in remanding the case to the arbitrator to consider defendants’ request for reconsideration of the award. We agree.

Although MCR 3.602(J)(3) provides that the trial court may order a rehearing before a new arbitrator upon vacating the award, there is nothing in MCR 3.602 that permits a trial court to return a case to an arbitrator for reconsideration. As discussed above, the reviewing court's options, upon challenge to an arbitration award, are to confirm, vacate, or modify the award. *Gordon Sel-Way, Inc., supra; Krist, supra*.

Arbitrators derive their authority from the parties' contract and the arbitration agreement. *Krist, supra* at 62. Independent of the contract, an arbitrator has no jurisdiction over a particular dispute. *Beattie, supra* at 578. Here, the arbitrator derived his authority from a stipulated court order and the parties did not provide for reconsideration by the arbitrator of the award. Accordingly, the arbitrator had no authority to reconsider the award.

Defendants argue that it is proper for a trial court to remand an award to the arbitrator under *Krist, supra* at 61. However, the issues on appeal in *Krist* concerned whether the arbitrator exceeded his authority and committed errors of law in rendering the amended award. *Id.* The parties never raised the issue of whether it was proper for the court to remand the award to the arbitrator, and the *Krist* Court never addressed this issue. Defendants also assert that this Court addressed the issue of whether a trial court may remand an award to an arbitrator in *Konal v Forlini*, 235 Mich App 69; 596 NW2d 630 (1999). Although the trial court did remand the award to the arbitrator in *Konal*, the issue of its propriety was neither raised nor addressed on appeal. *Id.* at 72. The issue on appeal concerned whether a claim of appeal is an appropriate method for invoking the jurisdiction of this Court. *Id.* at 73.

A case that does address the issue of whether an arbitrator may reconsider the original award is *Beattie, supra* at 573-574. The arbitration agreement was governed by common law. *Id.* at 578. In *Beattie*, the defendant challenged the award and submitted a motion for reconsideration to the arbitration panel. *Id.* at 575. Although the plaintiff refused to stipulate to reconsideration, the trial court ruled that the panel could reconsider its original decision. *Id.* This Court held that, because the arbitration agreement made no provision for reconsideration, the lower court erred in permitting the arbitration panel to reconsider its original decision. *Id.* at 576. Applying common law analysis, the *Beattie* Court found that the arbitrators' authority expired when they rendered the award, and the arbitrators exceeded their authority in reconsidering the merits of their original decision. *Id.* at 580.

Although we have found no Michigan case law regarding whether a trial court may properly remand a statutory arbitration award to the arbitrator for reconsideration, the general rule on this issue agrees with Michigan's rule regarding the reconsideration of a common law arbitration award by the arbitrator—

[a] final determination of the submitted questions exhausts the powers of arbitrators. Thereafter the matter is beyond their control, and they have no power to recall, reconsider, and amend, or otherwise alter the award, except that, at common law, they may correct clerical mistakes or any error appearing on the face of the award. Similarly, under the Uniform Arbitration Act and similar statutes, arbitrators may correct clerical errors, such as errors in calculations and mistakes in descriptions, or they may make a change that merely perfects a matter of form. The general rule does not apply, however, where by mistake the

arbitrators have failed to consider a portion of the dispute submitted; to be final an award must cover every point included in the submission.

Where a matter is submitted under a court rule providing that the report and award of the arbitrators is to be final, on presentation of the reports and award for confirmation, the arbitrators lose jurisdiction and cannot rehear the matter, and it is reversible error for the court, on its own motion and without any objection from the parties, to remand a report and award that does not show on its face that the arbitrators exceeded the terms of the order for additional findings. But under most statutes, the court has power in its discretion to order a rehearing by the arbitrators, in a proper case, on vacation of the award, or to modify and correct the award, or to resubmit the matter to the arbitrators. [4 Am Jur 2d, Alternative Dispute Resolution, § 210, pp 235-236.]

When a party challenges an arbitration award, a reviewing court must confirm, vacate, or modify the award. *Gordon Sel-Way, Inc, supra; Krist, supra*. The parties did not stipulate to reconsideration of the arbitration award by the arbitrator. Because defendants did not file a motion to correct, modify or vacate the award, the trial court's only valid option was to confirm the award. Therefore, the trial court erred in remanding the award to the arbitrator because the arbitrator lacked the authority to hear a motion for reconsideration.

Reversed and remanded for entry of an order confirming the award and entry of a judgment in conformity with the arbitration award. We do not retain jurisdiction.

/s/ Bill Schuette

/s/ Mark J. Cavanagh

/s/ Helene N. White